

## NOTICE OF PUBLIC HEARING

Pursuant to Hawaii Revised Statutes, Chapter 91, and Section 436E-7, notice is hereby given that the Board of Acupuncture will hold a public hearing on Thursday, September 7, 2000, at 1:00 p.m., in the Kuhina Nui Room on the second floor of the Kamamalu Building, 1010 Richards Street, Honolulu, Hawaii, 96813 for the purpose of hearing all persons interested in the proposed amendments to, repeal of certain sections of, and compilation of Title 16, Chapter 72, Hawaii Administrative Rules ("HAR"), entitled "Acupuncture Practitioners."

The proposed changes in Title 16, Chapter 72, include:

(1) Amending §16-72-3 (Definitions) by adding new definitions for "approved post-secondary school" or "post-secondary school", "approved post-secondary school", and "approved school" by setting forth the requirements for these schools and delineating the type of schooling required by applicants filing for licensure at different times. The rule also adds new definitions for "board", "contact hour" or "hour", and director and substitutes the phrase "oriental traditional medicine" for "traditional oriental medicine" with various changes to definition for the latter phrase; (2) Amending §16-72-4 (Authorized practice of acupuncture) by including

thermal therapy, moxibustion, and cupping within the practice;

(3) Amending §16-72-5 (Scope of practice of acupuncture) by recognizing that guidelines on the scope of practice should be imposed, by listing permissible practices and by deleting restrictive and unnecessary language regarding referrals by and to other health care practitioners; (4) Repealing §16-72-7 (Use of business name or trade name) and §16-72-10 (Termination of practice); (5) Adding a new rule (§16-72-11 Supervision and functions of an acupuncture intern in clinical practice) to specify the procedures for the direct supervision of an acupuncture intern, to provide for the scope of practice for the intern, and to recognize that a violation of this section would constitute professional misconduct; (6) Amending §16-72-14 (Formal education and training requirements) by delineating the specific requirements demanded of particular applicants for licensure and specifying how these requirements are to be fulfilled, including but not limited to detailing the hours of schooling, the course of study, and clinical training involved; (7) Adding a new rule (§16-72-17 Academic standards for the use of titles) that delineates the requirements for the use of doctoral designations, such as "Doctor of Acupuncture", "D.Ac." or similar titles, and "Ph.D." before, on, and after September 1, 2000. A licensee who was previously authorized by the Board to use a doctoral

designation may use it only until September 1, 2000.

Commencing September 1, 2000, the licensee must apply for and receive the Board's permission to use the designation, by demonstrating that the licensee meets certain designated requirements; (8) Amending §16-72-20 (Applications) by adding an application for a person wishing to use an acupuncture title, allowing an application fee to be paid by personal check, deleting the photograph requirement, adding a requirement that an applicant submit an affidavit that addresses certain matters, and adding additional requirements relating to the application process; (9) Adding a new rule §16-72-20.1 (Application for an acupuncture intern permit) that sets forth the requirements and information needed for an application for an acupuncture intern permit (10) Amending §16-72-23 (Verification of education and training) by specifying and modifying the kinds of documents that certain applicants for licensure need to submit to the Board to verify their educational and clinical training backgrounds; (11) Amending §16-72-27 (Deadline for filing application for a license) by adding the phrase "for a license" to the title of the rule and specifying that the rule applies to an application for a license; (12) Amending §16-72-28 (Demand for hearing) by stating that a person aggrieved by the Board's refusal to renew, restore, or reinstate a license or by the

Board's refusal to permit the use of an academic designation may request a contested case hearing; (13) Repealing §16-72-29 (Abandonment of application); (14) Amending §16-72-33 (Examination) by modifying the examination that an applicant for licensure shall pass by means of specifying the National Certification Commission for Acupuncture and Oriental Medicine's written comprehensive examination or such other examination determined by the Board and by giving notice that applicants with disabilities may be afforded special testing arrangements and accommodations subject to certain conditions; (15) Amending §16-72-35 (Language) by stating that the Board may permit an applicant to take the licensure examination, in a language other than English, if the applicant requests it and if such an examination is available; (16) Amending §16-72-36 (Passing score) by specifying that the passing score for the written comprehensive examination shall be as determined and recommended by the Board's testing contractor or, for another examination required by the Board, as determined by the Board; (17) Repealing §16-72-37 (Content), §16-72-41 (Failure to appear for examinations), and §16-72-42 (Re-examination); (18) Amending §16-72-47 (Renewal due date) by stating that the Board will accept a personal check in payment of a renewal fee; (19) Amending §16-72-48 (Failure to renew; forfeiture; restoration) by providing that a forfeited license

may be restored within one year after forfeiture upon compliance with the licensing renewal requirements and upon fulfilling other conditions; (20) Amending §16-72-53 (Sanitation practices) by adding, modifying, and deleting certain required sanitation practices related to the use of needles and reusable instruments and specifying standards for the handling of a hazardous waste container; and (21) Amending §16-72-57 (Use of titles) by setting forth parameters and requirements for the use of academic designations by persons in the acupuncture profession and clarifying that a licensee, who previously received the Board's approval to use a doctoral title, must fulfill certain requirements to continue to use the doctoral title after September 1, 2000.

The proposed changes also include technical, nonsubstantive changes to various rules in this chapter for the purposes of style and clarity. Also, the rules, that remain in effect and have not been amended, have been compiled.

All interested persons shall be afforded an opportunity to submit data, views, or arguments, orally or in writing, at the time of the hearing. All persons wishing to submit written testimony are requested to submit seven (7) copies of their written testimony by Monday, August 28, 2000, to the Professional and Vocational Licensing Division at the address

noted below.

A copy of the proposed rule amendments, rules to be repealed, and compilation to be adopted will be mailed to any person who requests a copy, upon receipt of \$3.35 for the copy and the postage. Please submit your request to the Professional and Vocational Licensing Division at the address noted below or you may contact the Board's office at (808) 586-2698. In addition, copies may be picked up at the following address between 7:45 a.m. and 4:30 p.m., Monday through Friday, excluding holidays: Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division, 1010 Richards Street, Room 7, Honolulu, Hawaii 96813. The cost of a copy, \$2.80 is due and payable at the time of pick up.

The proposed rule amendments and compilation may be reviewed in person free of charge at the Professional and Vocational Licensing Division at the address and hours of operation printed above. In addition, the full text of the proposed rule and amendments and compilation is available and can be downloaded free of charge from the website of the Department of Commerce and Consumer Affairs:  
<http://www.state.hi.us/dcca>.

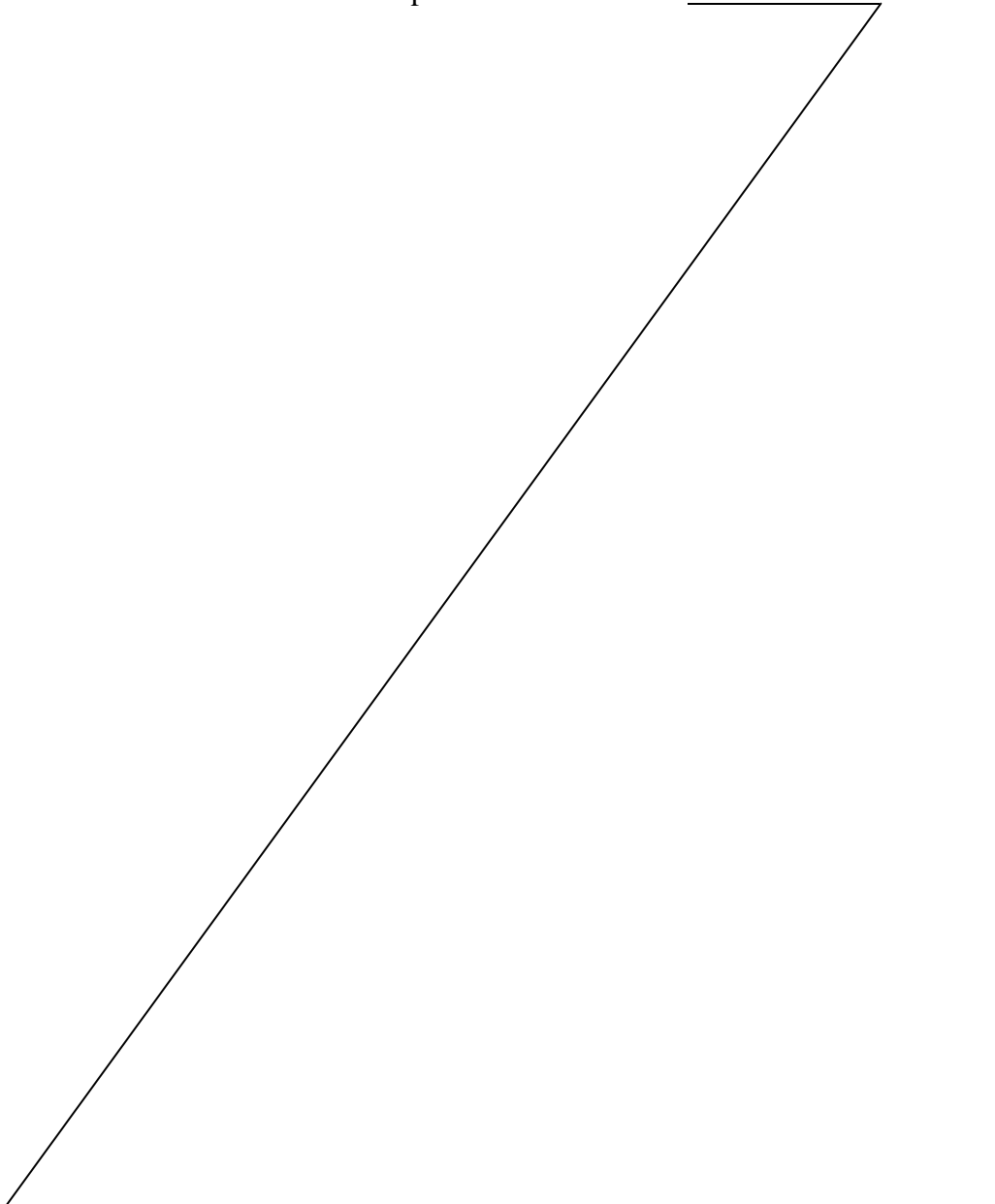
Individuals who require special accommodations (e.g. sign language interpreter, large print, taped materials, etc.) are

invited to call Christine Rutkowski at (808) 586-2698 at least  
**four (4) working days** in advance of the hearing.

Christiane Wingenfeld-Christ, L.Ac., Chairperson  
Board of Acupuncture  
State of Hawaii

Amendment and Compilation of Chapter 16-72  
Hawaii Administrative Rules

1. Chapter 16-72, Hawaii Administrative Rules, entitled "Acupuncture Practitioners" is amended and compiled to read as follows:





"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 72

ACUPUNCTURE PRACTITIONERS

Subchapter 1 General Provisions

§16-72-1 Repealed

§16-72-2 Objective

Subchapter 2 Definitions

§16-72-3 Definitions

Subchapter 3 Authorized Practice; Scope of Practice; License

§16-72-4 Authorized practice of acupuncture

§16-72-5 Scope of practice of acupuncture

§16-72-6 Records

§16-72-7 Repealed

§16-72-8 Display of license

§16-72-9 Change of address

§16-72-10 Repealed

§16-72-11 Supervision and functions of an acupuncture intern in clinical practice

Subchapter 4 Education and Training Requirements

§16-72-14 Formal education and training requirements

§16-72-15 Repealed

§16-72-16 Repealed

§16-72-17 Academic standards for the use of titles

### Subchapter 5 Application for License

§16-72-20	Applications
§16-17-20.1	Application for an acupuncture intern permit
§16-72-21	Repealed
§16-72-22	Repealed
§16-72-23	Verification of education and training
§16-72-24	Repealed
§16-72-25	Documents in foreign language
§16-72-26	Sufficiency of documents
§16-72-27	Deadline for filing application for a license
§16-72-28	Demand for hearing
§16-72-29	Repealed

### Subchapter 6 Examinations

§16-72-33	Examination
§16-72-34	Frequency
§16-72-35	Language
§16-72-36	Passing score
§16-72-37	Repealed
§16-72-38	Repealed
§16-72-39	Repealed
§16-72-40	Repealed
§16-72-41	Repealed
§16-72-42	Repealed

### Subchapter 7 License Renewal

§16-72-46	Renewal
§16-72-47	Renewal due date
§16-72-48	Failure to renew; forfeiture; restoration

### Subchapter 8 Public Health and Sanitation

§16-72-52	Office
§16-72-53	Sanitation practices

## Subchapter 9 Advertisement

- §16-72-57 Use of titles
- §16-72-58 Repealed
- §16-72-59 Repealed

## Subchapter 10 Practice and Procedure

- §16-72-63 Administrative practice and procedure

## Subchapter 11 Oral Testimony

- §16-72-67 Oral testimony

# SUBCHAPTER 1

## GENERAL PROVISIONS

§16-72-1 Repealed. [R 12/30/82]

§16-72-2 Objective. This chapter is intended to clarify and implement chapter 436E, [HRS,] Hawaii Revised Statutes (“HRS”), to the end that the provisions thereunder may be best effectuated and the public interest most effectively served. [Eff 3/12/76; am and ren §16-72-2, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

# SUBCHAPTER 2

## DEFINITIONS

§16-72-3 Definitions. The definition of terms as appearing in chapter 436E, HRS, shall be adopted by reference. In addition, as used in this chapter, the following definitions shall be included:

"Acupuncture needle" means a straight, slender rod of various length and diameter, tapered to a sharp point at one end for piercing the skin, with one end for manipulation or maintaining the needle in place, and inserted by an acupuncture practitioner into acupuncture points on the human body. A staple is not an acupuncture needle.

"Acupuncture practitioner" means a person holding a valid license issued by the board of acupuncture in the State.

"Approved post-secondary school" or "post-secondary school" means:

- (1) An institute, school, or college accredited by or recognized as a candidate for accreditation by an accrediting body recognized by the United States Department of Education;
- (2) An institute, school, or college which, at the time the applicant completed the acupuncture courses, was accredited or a candidate for accreditation by an accrediting body recognized by the United States Department of Education; or
- (3) An institute, school or college whose curriculum is approved by the board, but which was not accredited or recognized as a candidate for accreditation because accreditation in acupuncture or another field of medical study was not yet available.

"Approved post-secondary school" in the case of a foreign school means an institute, school or college which is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority of that country and whose curriculum is approved by the board.

"Approved school", "school approved by the board", or similar words or phrases used in reference to an institute, school, college, or program of acupuncture or traditional Oriental medicine that includes acupuncture means:

- (1) For a person who files an application with the board prior to September 1, 2000, an institute, school, college, or program of acupuncture, or traditional Oriental medicine which, at the time of the applicant's graduation, is licensed, approved, a candidate for accreditation, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in that jurisdiction, state, or country and whose curriculum is approved by the board; or
- (2) For a person who files an application with the board on or after September 1, 2000, an institute, school, college, or program of

acupuncture or traditional Oriental medicine, which, at the time of the applicant's graduation, is accredited or recognized as a candidate for accreditation by any acupuncture or traditional Oriental medicine accrediting body recognized by the United States Department of Education;

Provided that "approved school" in the case of a foreign school means an institute, school, college, or program with a formal program in the science of acupuncture or traditional Oriental medicine which is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in that country and whose curriculum is approved by the board.

"Board" means the board of acupuncture.

"Contact hour" or "hour" means a minimum of fifty minutes of organized classroom instruction or practical clinical training.

"Director" means the director of the department of commerce and consumer affairs.

"Functional disorder" means a condition of the human body in which the symptoms cannot be referred to any organic lesion or change of structure[;], as opposed to an organic disorder.

"Office" means the physical facilities used for the practice of acupuncture.

["Oriental traditional] "Traditional Oriental medicine" means the system of the healing art which places the chief emphasis on the flow and balance of energy in the human body [mechanism] as being the most important [single] factor in maintaining the well-being of the [organism] body in health and disease and includes the practice of acupuncture and herbal medicine. [Eff 3/12/76; am and ren §16-72-3, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

### SUBCHAPTER 3

#### AUTHORIZED PRACTICE; SCOPE OF PRACTICE; LICENSE

§16-72-4 Authorized practice of acupuncture. An acupuncture practitioner is authorized to conduct treatment of the human body by means of stimulation of a certain acupuncture point or points for the purpose of controlling and regulating the flow and balance of energy in the body. The practice includes the techniques of piercing the skin by inserting needles and point stimulation by the use of acupressure, electrical, mechanical, thermal[,], therapy, moxibustion, cupping, or traditional therapeutic means.

[Eff 3/12/76; am and ren §16-72-4, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-2)

§16-72-5 Scope of practice of acupuncture. Acupuncture is used in a wide range of treatment. However, the board recognizes that [restrictions] guidelines on the scope of practice of an acupuncture practitioner should be imposed and establishes the following [limitations of practice in the State:] permissible practices of

[(1) Authorized] authorized treatment which consists of pain relief and analgesia; functional and musculoskeletal disorders, including functional components of diseases; and [abnormal conditions; and] the maintenance of well being, promotion of health, and physiological balance.

[(2) Referred treatment of other areas when referred by a medical doctor licensed in the State under chapter 453, HRS, and dentists licensed under chapter 448, HRS. Similarly, the acupuncture practitioner may refer patients with ailments beyond the practitioner's scope of treatment to a medical doctor or dentist.] [Eff 3/12/76; am and ren §16-72-5, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp ] (Auth: HRS §436E-7) (Imp: HRS §§436E-2, 436E-7)

§16-72-6 Records. A licensee shall keep accurate records of each patient the licensee treats. The records shall include the name of the patient, the indication and nature of treatment given, and any other relevant data deemed important by the licensee.

Records shall be kept on file for a minimum of seven years and shall be open to inspection at any time by the board or its duly authorized representative. [Eff 3/12/76; am and ren §16-72-6, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

[§16-72-7 Use of business name or trade name. A business name or trade name used by an acupuncture practitioner shall be registered with the board.] [Eff 3/12/76; am and ren §16-72-7, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; R ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-8 Display of license. The license certificate shall be conspicuously displayed in the office of practice. [Eff 3/12/76; am and ren §16-72-8, 6/22/81; comp 12/30/82; comp 11/20/86; comp 11/25/88; comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-9 Change of address. A licensee shall notify the board of any change of address within thirty days of the change. [Eff 3/12/76; am and ren §16-72-9, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88; comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

[§16-72-10 Termination of practice. A licensee shall notify the board in writing of an intended termination of the licensee's practice or temporary closing of the acupuncture business if the temporary cessation of business is over ninety days. The licensee shall notify the board upon resuming the acupuncture practice.] [Eff 3/12/76; am and ren §16-72-10, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; R ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-11 Supervision and functions of an acupuncture intern in clinical practice. (a) No licensee shall allow an acupuncture intern to perform acupuncture treatment without the licensee's direct supervision. Direct supervision means that the licensee is physically present prior to, during, and after the intern's treatment of a patient, by instructing and providing active guidance to the intern in the diagnosis and treatment of the patient. In addition, the licensee shall ensure that:

- (1) All patients shall be notified and shall consent to treatment by an acupuncture intern; and
- (2) Every acupuncture intern under the licensee's supervision shall wear a conspicuously placed name tag stating the person's name and the words "acupuncture intern." The words "acupuncture intern" shall have letters at least one half inch high.

(b) Acupuncture services rendered by an acupuncture intern may include the items delineated in the scope of practice of acupuncture as set forth in section 16-72-5.

(c) Any violation of this section shall constitute professional misconduct.  
[Eff and comp ] (Auth: HRS §436E-7) (Imp: HRS §§436E-2, 436E-3.6, 436E-7)

#### SUBCHAPTER 4

##### EDUCATION AND TRAINING REQUIREMENTS

§16-72-14 Formal education and training[.] requirements. (a) For applicants applying before September 1, 2000:

- (1) An applicant shall submit satisfactory proof of graduation from [a school or college, which includes in its curriculum educational courses and training established to qualify students to practice acupuncture or oriental traditional medicine. The course of study shall extend for a minimum duration of three academic years (one thousand five hundred hours) and shall consist of not less than two academic years (six hundred hours) of study of acupuncture or oriental traditional medicine and not less than twelve months (nine hundred hours) of supervised clinical internship program. The clinical practice shall be served under the direction of a licensed acupuncture practitioner. If a clinical internship program, as described herein, is not required to receive a certificate or diploma of graduation from the school or college, the applicant must complete at least twelve months of clinical practice consisting of at least nine hundred hours under the supervision of a licensed acupuncture practitioner who has been in practice for not less than five years.
- (b) The acupuncture or oriental traditional medicine course curriculum] an approved school, and satisfactory proof of completing a course of study



of formal education and clinical training consisting of not less than one thousand five hundred hours.

(2) To satisfy the formal educational requirements, the applicant shall complete a course of study resulting in the award of a certificate or diploma, consisting of not less than two academic years (not less than six hundred hours) of study of acupuncture or traditional Oriental medicine. The course of study shall cover, but shall not be limited to, the following subjects [such as]:

- [(1)] (A) History and philosophy of [oriental traditional] traditional Oriental medicine (Nei-Ching, Taoism, Chi and Hsieh, Yin and Yang, and others);
- [(2)] (B) Traditional human anatomy, including location of acupuncture points;
- [(3)] (C) Traditional physiology, including the five elements organ theory;
- [(4)] (D) Traditional clinical diagnosis, including pulse diagnosis;
- [(5)] (E) Pathology, including the six Yin and seven Chin;
- [(6)] (F) Laws of acupuncture (mother and son, husband and wife, and five elements);
- [(7)] (G) Classification and function of points;
- [(8)] (H) Needle techniques;
- [(9)] (I) Complications;
- [(10)] (J) Forbidden points;
- [(11)] (K) Resuscitation;
- [(12)] (L) Safety and precautions;
- [(13)] (M) Use of electrical devices for diagnosis and treatment;
- [(14)] (N) Public health and welfare;
- [(15)] (O) Hygiene and sanitation; [and]  
(P) Oriental herbal studies; and
- [(16)] (Q) [Practical clinical] Clinical acupuncture practice.

(3) To satisfy the clinical training requirements, the applicant shall complete a course of training consisting of not less than twelve months (not less than nine hundred hours) of clinical internship training under the direct supervision of a licensed acupuncturist. The clinical internship training requirements may be obtained from a licensed acupuncturist at an approved school or from another clinical setting, from a licensed acupuncturist in private practice, or from any combination thereof. The licensed acupuncturist providing direct supervision shall:

- (A) Have been licensed and actively practicing for a period of not less than five years prior to the start of the applicant's clinical internship training; and
- (B) Have had a current, valid, and unencumbered license during the course of supervision.

(b) Notwithstanding the requirements of subsection (a), an applicant who started training prior to December 31, 1984, in a school approved by the board prior to December 31, 1984, and who completed the required training by December 31, 1989, and who files an application with the board before September 1, 2000, may qualify for licensure, provided that the applicant meets the requirements for examination and licensure as provided in chapter 436D, HRS, and rules adopted by the board as they existed on December 31, 1984, so long as the school has not altered its program so as to lower standards for completion of the program, and provided the applicant submits satisfactory proof of graduation from an approved school, and satisfactory proof of completing a course of study of formal education and clinical training consisting of at least one thousand fifty-six hours.

- (1) To satisfy the formal education requirements, the applicant shall have completed a course of study consisting of a minimum duration of eighteen months (at least five hundred seventy-six hours) of acupuncture or traditional Oriental medicine. The course of study shall cover, but not be limited to, the subjects listed in paragraph (a)(2).
- (2) To satisfy the clinical training requirements, the applicant shall have completed a course of training consisting of a minimum duration of six months (at least four hundred eighty hours) of clinical training in the practice of acupuncture on human subjects under the direct supervision of a licensed acupuncturist. The clinical training requirements may have been obtained at an approved school, or from another clinical setting, from a licensed acupuncturist in private practice or from any combination thereof.

(c) An applicant applying on or after September 1, 2000, shall submit satisfactory proof of graduation from an approved school and satisfactory proof of completing a course of study of formal education and clinical training consisting of at least two thousand one hundred seventy five hours.

- (1) To satisfy the formal educational requirements, the applicant shall complete an acupuncture and traditional Oriental medicine course of study consisting of not less than one thousand five hundred fifteen hours. The course of study shall cover, but not be limited to, the subjects listed in paragraph (a)(2).

- (2) To satisfy the clinical training requirements, the applicant shall complete a course of training consisting of not less than six hundred sixty hours under the supervision of a licensed acupuncturist. The clinical training requirements shall be obtained at an approved school and shall not be obtained from a licensed acupuncturist in private practice or another clinical setting unless it is a part of the clinical training curriculum of an approved school. [Eff 3/12/76; am and ren §16-72-14, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-5)

§16-72-15 Repealed. [R 11/20/86]

§16-72-16 Repealed. [R 12/30/82]

§16-72-17 Academic standards for the use of titles. (a) Subject to the provisions herein, a licensee may use an earned degree title if the licensee has completed education in an approved school that includes acupuncture coursework related to the degree.

(b) A licensee who was previously authorized by the board to use a doctoral designation may continue to use that designation until September 1, 2000.

(c) Commencing on September 1, 2000, no licensee shall be allowed to use the doctoral designations "Doctor of Acupuncture", "D.Ac.", or similar title unless that licensee has applied to and received the approval of the board to use the designation. In order for the licensee to receive the board's approval, the licensee shall demonstrate that the licensee has:

- (1) An earned doctoral degree in acupuncture or traditional Oriental medicine from an approved school, or shall have completed a program approved by the board in the study or practice of acupuncture or traditional Oriental medicine that consisted of at least five hundred hours in advanced academic education and training that is beyond that required for the L.Ac. entry level. The five hundred hours may include any combination of topics covered in categories I and II listed in "Appendix A" dated April 6, 2000, entitled "Doctoral Program" for determination of credential evaluation; and
- (2) At least one thousand five hundred hours of clinical training and practice of acupuncture, traditional Oriental herbal medicine, or traditional

Oriental physiotherapy, which may include laboratory work and presentation of scholastic instruction, that was obtained after the person commenced the doctoral studies.

(d) In determining whether a licensee meets the requirements to use the doctoral designation, the board may require additional information including, but not limited to, the licensee's school catalog course descriptions and documentation of the clinical training and practice of acupuncture.

(e) A licensee who has earned a doctoral title and who wishes to use a doctoral designation after September 1, 2000, shall comply with subsection (c) herein.

(f) A licensee who has been awarded a "Ph.D." in acupuncture or traditional Oriental medicine shall be considered a non-practitioner and shall be permitted to use the designation of "Ph.D." in accordance with subsection 436E-13(b), HRS. [Eff and comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-13)

## SUBCHAPTER 5

### APPLICATION FOR LICENSE

§16-72-20 [Application.] Applications. (a) Every person seeking a license to practice acupuncture or wishing to use any acupuncture title in the State shall file [a notarized] an application on a form provided by the board. All applications [must] shall be completed in English and shall be accompanied by the following:

(1) The application fee as provided in rules adopted by the director in accordance with chapter 91, HRS, and payable in the form of a personal check, a cashier's check, or a postal money order;

[(2) A passport-type photograph taken not more than six months prior to submission of application;

(3)] (2) Verification of the required education and training[;], as applicable;  
[and]

(3) An affidavit signed by the applicant stating that the applicant has read and shall abide by the board's laws and rules (chapter 436E, HRS, and this chapter) governing the practice of acupuncture; and

(4) Any other documents deemed necessary by the board.

(b) An application for a license may be filed at any time by an applicant who has taken and passed the examination identified in section 16-72-33 and shall be

accompanied by the items required in subsection (a). The applicant shall be responsible for having the testing contractor verify, directly to the board, the passing score of the examination as required in section 16-72-36. [Eff 3/12/76; am and ren §16-72-20, 6/22/81; comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp  
] (Auth: HRS §436E-7) (Imp: HRS §§436E-5, 436E-13)

§16-72-20.1 Application for an acupuncture intern permit. (a) An application for a permit to work for a period of four years as an acupuncture intern under the direct supervision of a licensed acupuncture practitioner may be filed with the board at any time and shall be accompanied by the required fee. The board may delegate to the board's executive officer the authority to issue an acupuncture intern permit to qualified applicants.

(b) An applicant shall provide verification of the following to the board:

(1) Evidence that the applicant has satisfactorily completed at least three semesters of instruction at an approved school and is currently enrolled in or is a graduate of an approved school;

(2) A copy of the applicant's diploma or official transcript from an approved school showing the applicant's date of graduation or a letter from the dean or registrar of an approved school stating that the applicant has completed at least three semesters shall be submitted with the application;

(3) The name and license number of the supervising acupuncture practitioner; provided that effective September 1, 2000, the applicant shall also provide the name of the approved school through which the clinical training is being obtained.

(c) An acupuncture intern permit may be reissued for a period not to exceed one year, upon written request to the board and payment of the required fee.  
[Eff and comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-3.6)

§16-72-21 Repealed. [R 11/20/86]

§16-72-22 Repealed. [R 12/30/82]

§16-72-23 Verification of education and training. [The] (a) For an applicant applying before September 1, 2000, the following documents shall be submitted [and accepted] as proof of the education and training of the applicant, provided [they meet] the requirements of [section 16-72-14:] subsection 16-72-14(a) or (b) are met, as applicable:

(1) Verification of academic or educational study and training at an approved school [or college:] consisting of:

(A) [Official] A certified transcript received by the board directly from an approved school and [photosatic] a photostatic copy of the diploma, certificate, or other certified documents from [a] an approved school [or college] bearing an official school seal evidencing completion of a program in acupuncture or [oriental traditional] traditional Oriental medicine[,] which includes acupuncture, and also a copy of the curriculum [in] demonstrating the areas of study [involved in the] taken at an approved school [or college]; or

[(B) Notarized affidavit or statement bearing the official school seal and signed by an officer of the school or training program certifying to applicant's satisfactory completion of the academic and clinical training and designating the subjects and hours; or

(C)] (B) If the school [is] no longer [existent] exists or if the school's records have been destroyed for some plausible reason, applicant may submit a sworn affidavit so stating and shall name the school, its address, dates of enrollment and curriculum completed, and the board, in its discretion, may request the applicant also to provide verification from the appropriate governmental authority or an agency recognized by a governmental authority regarding the school's closing or of the unavailability of the school's records, and such other information and documents as the board may deem necessary[.] ; and

(C) A statement from the accrediting agency or appropriate governmental authority that the school is accredited or is a candidate for accreditation by an acupuncture accrediting agency recognized by the United States Department of Education, or that the school is licensed, approved, or accredited by the appropriate governmental authority or an

agency recognized by a governmental authority in that jurisdiction, state, or country.

- (2) Verification of clinical training[:] consisting of:
- (A) [Name] The name(s) of the licensed acupuncture [practitioner] practitioner(s) under whom the applicant served for the clinical training, the practitioner's license number, a verification of practitioner's dates of licensure, street address of business, the number of hours, dates, and length of training completed by the applicant, and a [statement of assigned duties;] description of training received by the applicant; and
  - (B) A certification signed by the acupuncture practitioner under oath that applicant completed a course of clinical training under the practitioner's direction [over a period of not less than one year (900 hours);] as required in paragraph 16-72-14(a)(3) or in paragraph 16-72-14(b)(2), as applicable; or
  - (C) If the practitioner is deceased or whereabouts not known, the applicant shall so state and shall submit a sworn affidavit certifying to the applicant's completion of clinical training and other documents as the board may deem necessary.

(b) For applicants applying on or after September 1, 2000, the following documents shall be submitted as proof of the education and clinical training of the applicant at an approved school provided they meet the requirements of paragraph 16-72-14(c):

- (1) A certified transcript received directly from an approved school and a photostatic copy of diploma, certificate, or other certified documents from an approved school bearing an official school seal evidencing completion of a program in acupuncture or traditional Oriental medicine, which includes acupuncture, and also a copy of the curriculum demonstrating the areas of study taken at an approved school; or
- (2) If the school no longer exists or if the school's records have been destroyed for some plausible reason, the applicant may submit a sworn affidavit so stating and shall name the school, its address, dates of enrollment and curriculum completed and shall also provide verification, from the acupuncture accrediting agency recognized by the United States Department of Education, or in the case of a foreign school, verification from the appropriate governmental authority or an agency recognized by a governmental authority, of the school's closing or of the

unavailability of the school's records, and such other information and documents as the board may deem necessary; and

- (3) A statement from the accrediting agency or appropriate governmental authority that the school is accredited or is a candidate for accreditation by an acupuncture accrediting agency recognized by the United States Department of Education, or in the case of a foreign school, that the school is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in that country. [Eff 9/12/76; am and ren §16-72-23, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp ] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §436E-5)

§16-72-24 Repealed. [R 11/20/86]

§16-72-25 Documents in foreign language. All documents submitted in a foreign language shall be accompanied by an accurate translation in English. Each translated document shall bear the affidavit of the translator certifying that the translator is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original, and sworn to before a notary public. Translation of any document relative to a person's application shall be at the expense of the applicant. [Eff 3/12/76; am and ren §16-72-25, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88; comp ] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §436E-5)

§16-72-26 Sufficiency of documents. In all cases the board's decision as to the sufficiency of documentation shall be final. The board may request further proof of qualification and may also require a personal interview with the applicant to establish the applicant's qualification. [Eff 3/12/76; am and ren §16-72-26, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88; comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-5)

§16-72-27 Deadline for filing application[.]for a license. The application[.] for a license together with the accompanying documents[.] shall be filed at least seventy-five



days before the date of the examination. [Eff 3/12/76; am and ren §16-72-27, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp ] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §§436E-5, 436E-7)

§16-72-28 Demand for hearing. Any person aggrieved by the denial or refusal of the board to issue, renew, restore, or reinstate a license, or by the denial or refusal of the board to permit the use of an academic designation shall submit a request for a contested case hearing pursuant to chapter 91, HRS, and Hawaii Administrative Rules (“HAR”), chapter 16-201, the rules of practice and procedure, within sixty days of the date of the refusal or denial. Appeal to the circuit court under section 91-14, HRS, or any other applicable statute, may only be taken from the board's final order. [Eff 3/12/76; am and ren §16-72-28, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp ] (Auth: HRS §§436B-24, 436E-7) (Imp: HRS §§436B-24, 436B-25, 436E-7)

[§16-72-29 Abandonment of application. An application shall be considered to be abandoned if it is not completed and the required documents and other information are not submitted to the board within one year from the date first filed.] [Eff 3/12/76; am and ren §16-72-29, 6/22/89 comp 12/30/82; comp 11/20/86; comp 11/25/88; R ] (Auth: HRS §436E-7) (Imp: HRS §§436B-9, 436E-5)

## SUBCHAPTER 6

### EXAMINATIONS

§16-72-33 Examination. [(a) The examination of applicants for acupuncture license shall be in two parts:

	<u>Time Allowance</u>
Part I - Written comprehensive examination	4 hours
Part II - State jurisprudence examination	45 minutes]

(a) Every applicant applying for a license to practice as an acupuncturist shall pass the National Certification Commission for Acupuncture and Oriental Medicine’s

(NCCAOM) written comprehensive examination or such other written examination as the board may determine.

(b) The examination shall be consistent with the practical and theoretical requirements of acupuncture practice as provided by chapter 436E, HRS, and this chapter. [Each part of the] The examination shall stand on its own merits. An applicant shall pass [both parts] the examination before the applicant can be licensed to practice acupuncture.

(c) The board may contract with an independent testing contractor to provide an examination for the board.

(d) Applicants with disabilities may be afforded special testing arrangements and accommodations provided proper application is made on a form supplied by the board and provided further that they qualify for such arrangements as determined by the board or its designee. [Eff 3/12/76; am and ren §16-72-33, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp ] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §§436E-5, 436E-7)

§16-72-34 Frequency. Examinations shall be conducted at least once a year. [Eff 3/12/76; am and ren §16-72-34, 6/22/81; comp 12/30/82; am and comp 11/20/86; comp 11/25/88; comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-35 Language. [Examinations will] The examination shall be given in English; provided that the board may give the written [comprehensive examination (part I)] examination in another language [if available by] upon the applicant's request and subject to the availability of such an examination from the independent testing contractor. [The applicant may include with the application a request of the language in which the applicant wishes to be tested subject to the availability of the examination in that language.] [Eff 3/12/76; am and ren §16-72-35, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp ] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §§436E-5, 436E-7)

§16-72-36 Passing score. [(a)] The passing score for the written comprehensive examination shall be [as determined by the testing contractor and shall be the] that minimum score for entry level competency as determined and

recommended by the board's testing contractor in accordance with standard psychometric procedures. The passing score for such other written examination required by the board shall be determined by the board.

[(b) The passing score for the state jurisprudence examination shall be seventy (70.00) points.] [Eff 3/12/76; am and ren §16-72-36, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; am and comp ] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §§436E-5, 436E-7)

[§16-72-37 Content. The written examination shall be structured in the form of multiple choice questions and designed to test the applicant's knowledge of:

- (1) Board of acupuncture laws and rules;
- (2) Health and safety requirements, hygiene and sanitation;
- (3) Federal laws and regulations governing use of acupuncture devices;
- (4) Theory and practice of oriental traditional medicine and related philosophy;
- (5) Basic knowledge of traditional human anatomy and physiology;
- (6) Scope and limitations of acupuncture treatment;
- (7) Diagnosis (within authorized scope of treatment);
- (8) Resuscitation;
- (9) Hazards of acupuncture; and
- (10) Other matters as the board may deem appropriate and necessary.

Blind persons and others under extenuating circumstances, upon proper application and justification, may be given the written examination orally.] [Eff 3/12/76; am and ren §16-72-37, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; R ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-38 Repealed. [R 11/20/86]

§16-72-39 Repealed. [R 11/20/86]

§16-72-40 Repealed. [R 11/20/86]

[§16-72-41 Failure to appear for examinations. The candidate shall notify the board in writing at least seventy-two hours before the examination if the candidate is unable to take the scheduled examination; provided that the candidate will be assessed the fee which the board incurs as a result of ordering an examination for the candidate. Failure to appear without prior notice shall result in forfeiture of the fee, except in the case of illness or similar emergency in which case a written request setting forth the reason or reasons why forfeiture should not occur shall be made to the board.] [Eff 3/12/76; am and ren §16-72-41, 6/22/81; am and comp 12/30/82; comp 11/20/86; am and comp 11/25/88; R ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

[§16-72-42 Re-examination. (a) A candidate who fails one part of the examination shall be given credit for the part the candidate passed, and the candidate may apply for re-examination of the part failed.

(b) An applicant for re-examination shall apply on a form provided by the board and pay the required fee.

(c) An applicant may repeat the examination any number of times, provided the applicant files the appropriate application form and pays the required fee.] [Eff 3/12/76; am and ren §16-72-42, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88; R ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

## SUBCHAPTER 7

### LICENSE RENEWAL

§16-72-46 Renewal. Application for renewal, regardless of the issuance date of the license, shall be made on a form provided by the board on or before June 30 of each odd-numbered year and shall be accompanied by the appropriate renewal fee as provided in rules adopted by the director in accordance with chapter 91, HRS. [Eff 3/12/76; am and ren §16-72-46, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-9)

§16-72-47 Renewal due date. A renewal fee transmitted by mail shall be considered filed when due if the envelope bears a postmark of June 30 of each odd-numbered year or any prior date. Payment of the renewal fee shall be in the form of a personal check, a cashier's check, or a postal money order. [Eff 3/12/76; am and ren §16-72-47, 6/22/81; comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-9)

§16-72-48 Failure to renew; forfeiture; restoration. Failure to pay the renewal fee when due shall constitute automatic forfeiture of the license. However, a license which has been forfeited for failure to pay the renewal fee may be restored within one year [of] after the date of forfeiture upon compliance with the licensing renewal requirements provided by law and upon written application and payment of the appropriate restoration fees as provided in rules adopted by the director in accordance with chapter 91, HRS. After one year from the date of forfeiture, a license shall not be restored and the person shall be treated as a new applicant and shall meet all the requirements of a new applicant. [Eff 3/12/76; am and ren §16-72-48, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp ] (Auth: HRS §436E-7) (Imp: HRS §§436B-14, 436E-9)

## SUBCHAPTER 8

### PUBLIC HEALTH AND SANITATION

§16-72-52 Office. When acupuncture is conducted in a building used for residential purposes, a room or rooms shall be set apart as an office for the practice and shall be used solely for this purpose. It shall be equipped with a washroom and toilet facilities. An acupuncture office may be inspected at any time during normal business hours by the board or any authorized employee of the department of commerce and consumer affairs. [Eff 3/12/76; am and ren §16-72-52, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88; comp ] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-53 Sanitation practices. Required practices shall include:

- (1) A fresh, disposable paper or a fresh sheet shall be used on the examining table for each patient;
- (2) Hands shall be washed with soap and water before handling [needles] a needle and between treatment of different patients;
- (3) A piercing needle shall be previously unused and sterilized;
- [(3)] (4) [All reuseable needles and instruments] A piercing needle shall not be used [on a patient] more than once per treatment and shall be [sterilized at a minimum of 250°F (or 121°C) for not less than thirty minutes before use on another patient;] disposed of immediately after use in the manner prescribed in paragraph (8) below;
- [(4)] (5) Skin, in the area of [penetration] any acupuncture procedure, shall be thoroughly swabbed with germicidal solution before [inserting needles such application;] using any needles;
- [(5)] (6) [All reuseable needles shall be placed in a germicidal solution, washed and rinsed prior to sterilization;] If the sterility of an unused needle or instrument has been compromised, it shall be sterilized at a minimum temperature of 250°F (or 121°C) for not less than thirty minutes at fifteen pounds of pressure per square inch before usage;
- [(6)] All disposable needles shall not be recapped;
- (7) All disposable needles shall not be used more than once, and shall be disposed of immediately in the manner prescribed in paragraph (8) below;]
- (7) Prior to its usage on a patient, a reusable instrument or a non-piercing acupuncture needle shall be sterilized at a minimum temperature of 250°F (or 121°C) for not less than thirty minutes at fifteen pounds of pressure per square inch;
- (8) All used needles for disposal shall be placed in a hazardous waste container[, sealed, and disposed in a safe manner (i.e., taking the disposed needles in a sealed container for incineration);] that meets standards set by the department of health. All handling of the container, including but not limited to treating, transporting, and disposing of the container, shall conform with the laws and rules of the department of health; and
- (9) Other reasonable sanitation procedures and practices recommended by governmental agencies or manufacturers shall be followed to [insure and] protect the health and safety of patients[.] and the public. [Eff

3/12/76; am and ren §16-72-53, 6/22/81; am and comp 12/30/82;  
comp 11/20/86; am and comp 11/25/88; am and  
comp ] (Auth: HRS §436E-7) (Imp: HRS  
§436E-7)

## SUBCHAPTER 9

### ADVERTISEMENT

§16-72-57 Use of titles. (a) An acupuncturist shall not misrepresent one's academic designation, professional title, qualification, and affiliation in an advertisement.

(b) A licensee who has been awarded an earned doctoral degree from an approved post-secondary school, post-secondary school, approved school, or school approved by the board, and who meets the academic standards set forth in section 16-72-17 may use the title "Doctor," "Dr.," "Doctor of Acupuncture," "D.Ac.," provided that the word "Acupuncturist" immediately follows the licensee's name.

(c) A licensee who was previously approved by the board to use the doctoral title prior to adoption of this chapter may continue to use the designation until September 1, 2000. In order to continue to use the doctoral title after September 1, 2000, the licensee shall apply for the use of an academic title and shall provide proof to the board of meeting the academic standards of section 16-72-17. The licensee's failure to apply and to meet the academic standards of section 16-72-17 by September 1, 2000, shall result in the loss of all rights to the continued usage of the doctoral title and the licensee shall immediately refrain from using the title. [Eff 3/12/76; am and ren §16-72-57, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88; am and comp ] (Auth: HRS §§436E-7, 436E-13) (Imp: HRS §436E-13)

§16-72-58 Repealed. [R 11/20/86]

§16-72-59 Repealed. [R 11/20/86]

## SUBCHAPTER 10

## PRACTICE AND PROCEDURE

§16-72-63 Administrative practice and procedure. The rules of practice and procedure [for acupuncturists] shall be as provided in HAR, chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff and comp 11/20/86; comp 11/25/88; am and comp ] (Auth: HRS §§91-2, 436E-7) (Imp: HRS §§91-2, 436E-7)

### SUBCHAPTER 11

#### ORAL TESTIMONY

§16-72-67 Oral testimony. (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony [shall so] is requested to notify the board no later than forty-eight hours prior to the meeting, and at that time shall state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
- (4) Persons presenting oral testimony, at the beginning of the testimony, shall identify themselves and the organization, if any, that they represent;
- (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and
- (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this chapter shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another proceeding pending subject to the hearing relief, declaratory relief, or rule relief provisions of HAR, chapter 16-201.



(c) Nothing in this chapter shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda." [Eff and comp 11/20/86; comp 11/25/88; am and comp ] (Auth: HRS §§92-3, 436E-7) (Imp: HRS §92-3)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 16-72, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_ and filed with the Office of the Lieutenant Governor.

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MIKE M. HASHIMOTO, Ph.D.  
Chair, Board of Acupuncture

APPROVED AS TO FORM:

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Deputy Attorney General

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 72

ACUPUNCTURE PRACTITIONERS

Subchapter 1 General Provisions

- §16-72-1 Repealed
- §16-72-2 Objective

Subchapter 2 Definitions

- §16-72-3 Definitions

Subchapter 3 Authorized Practice; Scope of Practice; License

- §16-72-4 Authorized practice of acupuncture
- §16-72-5 Scope of practice of acupuncture
- §16-72-6 Records
- §16-72-7 Use of business name or trade name
- §16-72-8 Display of license
- §16-72-9 Change of address
- §16-72-10 Termination of practice

Subchapter 4 Education and Training Requirements

- §16-72-14 Formal education and training
- §16-72-15 Repealed
- §16-72-16 Repealed

Subchapter 5 Application for License

- §16-72-20 Application
- §16-72-21 Repealed
- §16-72-22 Repealed

§16-72-23	Verification of education and training
§16-72-24	Repealed
§16-72-25	Documents in foreign language
§16-72-26	Sufficiency of documents
§16-72-27	Deadline for filing application
§16-72-28	Demand for hearing
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#### Subchapter 6 Examinations

§16-72-33	Examination
§16-72-34	Frequency
§16-72-35	Language
§16-72-36	Passing score
§16-72-37	Content
§16-72-38	Repealed
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#### Subchapter 7 License Renewal

§16-72-46	Renewal
§16-72-47	Renewal due date
§16-72-48	Failure to renew; forfeiture; restoration

#### Subchapter 8 Public Health and Sanitation

§16-72-52	Office
§16-72-53	Sanitation practices

#### Subchapter 9 Advertisement

§16-72-57	Use of titles
§16-72-58	Repealed
§16-72-59	Repealed

#### Subchapter 10 Practice and Procedure

§16-72-63	Administrative practice and procedure
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## Subchapter 11 Oral Testimony

### §16-72-67 Oral testimony

## SUBCHAPTER 1

### GENERAL PROVISIONS

#### §16-72-1 Repealed. [R 12/30/82]

§16-72-2 Objective. This chapter is intended to clarify and implement chapter 436E, HRS, to the end that the provisions thereunder may be best effectuated and the public interest most effectively served. [Eff 3/12/76; am and ren §16-72-2, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

## SUBCHAPTER 2

### DEFINITIONS

§16-72-3 Definitions. The definition of terms as appearing in chapter 436E, HRS, shall be adopted by reference. In addition, the following definitions shall be included:

"Acupuncture needle" means a straight, slender rod of various length and diameter, tapered to a sharp point at one end for piercing the skin, with one end for manipulation or maintaining the needle in place, and inserted by an acupuncture practitioner into acupuncture points on the human body. A staple is not an acupuncture needle.

"Acupuncture practitioner" means a person holding a valid license issued by the board of acupuncture in the State.

"Functional disorder" means a condition of the human body in which the symptoms cannot be referred to any organic lesion or change of structure; opposed to organic disorder.

"Office" means the physical facilities used for the practice of acupuncture.

"Oriental traditional medicine" means the system of the healing art which places the chief emphasis on the flow and balance of energy in the body mechanism as being the most important single factor in maintaining the well-being of the organism in health and disease and includes the practice of acupuncture and

herbal medicine. [Eff 3/12/76; am and ren §16-72-3, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

### SUBCHAPTER 3

#### AUTHORIZED PRACTICE; SCOPE OF PRACTICE; LICENSE

§16-72-4 Authorized practice of acupuncture. An acupuncture practitioner is authorized to conduct treatment of the human body by means of stimulation of a certain acupuncture point or points for the purpose of controlling and regulating the flow and balance of energy in the body. The practice includes the techniques of piercing the skin by inserting needles and point stimulation by the use of acupressure, electrical, mechanical, thermal, or traditional therapeutic means. [Eff 3/12/76; am and ren §16-72-4, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-2)

§16-72-5 Scope of practice of acupuncture. (a) Acupuncture is used in a wide range of treatment. However, the board recognizes that restrictions on the scope of practice of an acupuncture practitioner should be imposed and establishes the following limitations of practice in the State:

- (1) Authorized treatment which consists of pain relief and analgesia; functional disorders, including functional components of diseases; and abnormal conditions; and
- (2) Referred treatment of other areas when referred by a medical doctor licensed in the State under chapter 453, HRS, and dentists licensed under chapter 448, HRS. Similarly, the acupuncture practitioner may refer patients with ailments beyond the practitioner's scope of treatment to a medical doctor or dentist. [Eff 3/12/76; am and ren §16-72-5, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-6 Records. A licensee shall keep accurate records of each patient the licensee treats. The records shall include the name of the patient, the indication and nature of treatment given, and any other relevant data deemed important by the licensee. Records shall be kept on file for a minimum of seven years and shall be open to inspection at any time by the board or its duly

authorized representative. [Eff 3/12/76; am and ren §16-72-6, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-7 Use of business name or trade name. A business name or trade name used by an acupuncture practitioner shall be registered with the board. [Eff 3/12/76; am and ren §16-72-7, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-8 Display of license. The license certificate shall be conspicuously displayed in the office of practice. [Eff 3/12/76; am and ren §16-72-8, 6/22/81; comp 12/30/82; comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-9 Change of address. A licensee shall notify the board of any change of address within thirty days of the change. [Eff 3/12/76; am and ren §16-72-9, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-10 Termination of practice. A licensee shall notify the board in writing of an intended termination of the licensee's practice or temporary closing of the acupuncture business if the temporary cessation of business is over ninety days. The licensee shall notify the board upon resuming the acupuncture practice. [Eff 3/12/76; am and ren §16-72-10, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

#### SUBCHAPTER 4

#### EDUCATION AND TRAINING REQUIREMENTS

§16-72-14 Formal education and training. (a) An applicant shall submit satisfactory proof of graduation from a school or college, which includes in its curriculum educational courses and training established to qualify students to practice acupuncture or oriental traditional medicine. The course of study shall extend for a minimum duration of three academic years (one thousand five hundred hours) and shall consist of not less than two academic years (six hundred

hours) of study of acupuncture or oriental traditional medicine and not less than twelve months (nine hundred hours) of supervised clinical internship program. The clinical practice shall be served under the direction of a licensed acupuncture practitioner. If a clinical internship program, as described herein, is not required to receive a certificate or diploma of graduation from the school or college, the applicant must complete at least twelve months of clinical practice consisting of at least nine hundred hours under the supervision of a licensed acupuncture practitioner who has been in practice for not less than five years.

(b) The acupuncture or oriental traditional medicine course curriculum shall cover, but not be limited to, subjects such as:

- (1) History and philosophy of oriental traditional medicine (Nei-Ching, Taoism, Chi and Hsieh, Yin and Yang, and others);
- (2) Traditional human anatomy, including location of acupuncture points;
- (3) Traditional physiology, including the five elements organ theory;
- (4) Traditional clinical diagnosis, including pulse diagnosis;
- (5) Pathology, including the six Yin and seven Chin;
- (6) Laws of acupuncture (mother and son, husband and wife, and five elements);
- (7) Classification and function of points;
- (8) Needle techniques;
- (9) Complications;
- (10) Forbidden points;
- (11) Resuscitation;
- (12) Safety and precautions;
- (13) Use of electrical devices for diagnosis and treatment;
- (14) Public health and welfare;
- (15) Hygiene and sanitation; and
- (16) Practical clinical acupuncture practice. [Eff 3/12/76; am and ren §16-72-14, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-5)

§16-72-15 Repealed. [R 11/20/86]

§16-72-16 Repealed. [R 12/30/82]

## SUBCHAPTER 5



## APPLICATION FOR LICENSE

§16-72-20 Application. Every person seeking a license to practice acupuncture in the State shall file a notarized application on a form provided by the board. All applications must be completed in English and accompanied by the following:

- (1) The application fee as provided in rules adopted by the director in accordance with chapter 91, HRS, and payable in the form of a cashier's check or postal money order;
- (2) A passport-type photograph taken not more than six months prior to submission of application;
- (3) Verification of the required education and training; and
- (4) Any other documents deemed necessary by the board. [Eff 3/12/76; am and ren §16-72-20, 6/22/81; comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-5)

§16-72-21 Repealed. [R 11/20/86]

§16-72-22 Repealed. [R 12/30/82]

§16-72-23 Verification of education and training. The following documents shall be submitted and accepted as proof of the education and training of the applicant, provided they meet the requirements of section 16-72-14:

- (1) Verification of academic or educational study and training at school or college:
  - (A) Official transcript and photosatic copy of diploma, certificate or other certified documents from a school or college evidencing completion of a program in acupuncture or oriental traditional medicine, and also a copy of the curriculum in the areas of study involved in the school or college; or
  - (B) Notarized affidavit or statement bearing the official school seal and signed by an officer of the school or training program certifying to applicant's satisfactory completion of the academic and clinical training and designating the subjects and hours; or

- (C) If the school is no longer existent or if the school's records have been destroyed for some plausible reason, applicant may submit a sworn affidavit so stating and shall name the school, its address, dates of enrollment and curriculum completed, and such other information and documents as the board may deem necessary.
- (2) Verification of clinical training:
  - (A) Name of the licensed acupuncture practitioner under whom the applicant served for the clinical training, street address of business, number of hours of training and a statement of assigned duties;
  - (B) A certification signed by the acupuncture practitioner under oath that applicant completed a course of clinical training under the practitioner's direction over a period of not less than one year (900 hours);
  - (C) If the practitioner is deceased or whereabouts not known, the applicant shall so state and shall submit a sworn affidavit certifying to the applicant's completion of clinical training and other documents as the board may deem necessary. [Eff 9/12/76; am and ren §16-72-23, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §436E-5)

§16-72-24 Repealed. [R 11/20/86]

§16-72-25 Documents in foreign language. All documents submitted in a foreign language shall be accompanied by an accurate translation in English. Each translated document shall bear the affidavit of the translator certifying that the translator is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original, and sworn to before a notary public. Translation of any document relative to a person's application shall be at the expense of the applicant. [Eff 3/12/76; am and ren §16-72-25, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88] (Auth: HRS §§436E-5, 436E-7) (Imp: HRS §436E-5)

§16-72-26 Sufficiency of documents. In all cases the board's decision as to the sufficiency of documentation shall be final. The board may request further proof of qualification and may also require a personal interview with the applicant to establish the applicant's qualification. [Eff 3/12/76; am and ren §16-72-26, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-5)

§16-72-27 Deadline for filing application. The application, together with the accompanying documents, shall be filed at least seventy-five days before the date of the examination. [Eff 3/12/76; am and ren §16-72-27, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-5)

§16-72-28 Demand for hearing. Any person aggrieved by the denial or refusal of the board to issue a license, shall submit a request for a contested case hearing pursuant to chapter 91, HRS, and chapter 16-201, the rules of practice and procedure, within sixty days of the date of the refusal or denial. Appeal to the circuit court under section 91-14, HRS, or any other applicable statute, may only be taken from the board's final order. [Eff 3/12/76; am and ren §16-72-28, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7, 436E-11) (Imp: HRS §436E-11)

§16-72-29 Abandonment of application. An application shall be considered to be abandoned if it is not completed and the required documents and other information are not submitted to the board within one year from the date first filed. [Eff 3/12/76; am and ren §16-72-29, 6/22/81; comp 12/30/82; comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-5)

## SUBCHAPTER 6

### EXAMINATIONS

§16-72-33 Examination. (a) The examination of applicants for acupuncture license shall be in two parts:

	<u>Time Allowance</u>
Part I - Written comprehensive examination	4 hours
Part II - State jurisprudence examination	45 minutes

(b) The examination shall be consistent with the practical and theoretical requirements of acupuncture practice as provided by chapter 436E, HRS, and this chapter. Each part of the examination shall stand on its own merits. An applicant shall pass both parts before the applicant can be licensed to practice acupuncture.

(c) The board may contract with an independent testing contractor to provide an examination for the board. [Eff 3/12/76; am and ren §16-72-33, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-34 Frequency. Examinations shall be conducted at least once a year. [Eff 3/12/76; am and ren §16-72-34, 6/22/81; comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-35 Language. Examinations will be given in English; provided that the board may give the written comprehensive examination (part I) in another language if available by the independent testing contractor. The applicant may include with the application a request of the language in which the applicant wishes to be tested subject to the availability of the examination in that language. [Eff 3/12/76; am and ren §16-72-35, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-36 Passing score. (a) The passing score for the written comprehensive examination shall be as determined by the testing contractor and shall be the minimum score for entry level competency determined in accordance with standard psychometric procedures.

(b) The passing score for the state jurisprudence examination shall be seventy (70.00) points. [Eff 3/12/76; am and ren §16-72-36, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-37 Content. The written examination shall be structured in the form of multiple choice questions and designed to test the applicant's knowledge of:

- (1) Board of acupuncture laws and rules;
- (2) Health and safety requirements, hygiene and sanitation;
- (3) Federal laws and regulations governing use of acupuncture devices;
- (4) Theory and practice of oriental traditional medicine and related philosophy;
- (5) Basic knowledge of traditional human anatomy and physiology;
- (6) Scope and limitations of acupuncture treatment;
- (7) Diagnosis (within authorized scope of treatment);
- (8) Resuscitation;
- (9) Hazards of acupuncture; and
- (10) Other matters as the board may deem appropriate and necessary.

Blind persons and others under extenuating circumstances, upon proper application and justification, may be given the written examination orally. [Eff 3/12/76; am and ren §16-72-37, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-38 Repealed. [R 11/20/86]

§16-72-39 Repealed. [R 11/20/86]

§16-72-40 Repealed. [R 11/20/86]

§16-72-41 Failure to appear for examinations. The candidate shall notify the board in writing at least seventy-two hours before the examination if the candidate is unable to take the scheduled examination; provided that the candidate will be assessed the fee which the board incurs as a result of ordering an examination for the candidate. Failure to appear without prior notice shall result in forfeiture of the fee, except in the case of illness or similar emergency in which case a written request setting forth the reason or reasons why forfeiture should not occur shall be made to the board. [Eff 3/12/76; am and ren §16-72-41, 6/22/81; am and comp 12/30/82; comp 11/20/86; am and comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-42 Re-examination. (a) A candidate who fails one part of the examination shall be given credit for the part the candidate passed, and the candidate may apply for re-examination of the part failed.

(b) An applicant for re-examination shall apply on a form provided by the board and pay the required fee.

(c) An applicant may repeat the examination any number of times, provided the applicant files the appropriate application form and pays the required fee. [Eff 3/12/76; am and ren §16-72-42, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

## SUBCHAPTER 7

### LICENSE RENEWAL

§16-72-46 Renewal. Application for renewal, regardless of the issuance date of the license, shall be made on a form provided by the board on or before June 30 of each odd-numbered year and shall be accompanied by the appropriate renewal fee as provided in rules adopted by the director in accordance with chapter 91, HRS. [Eff 3/12/76; am and ren §16-72-46, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-9)

§16-72-47 Renewal due date. A renewal fee transmitted by mail shall be considered filed when due if the envelope bears a postmark of June 30 of each odd-numbered year or any prior date. Payment of the renewal fee shall be in the form of a cashier's check or postal money order. [Eff 3/12/76; am and ren §16-72-47, 6/22/81; comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-9)

§16-72-48 Failure to renew; forfeiture; restoration. Failure to pay the renewal fee when due shall constitute automatic forfeiture of the license. However, a license which has been forfeited for failure to pay the renewal fee may be restored within one year of the date of forfeiture upon written application and payment of the appropriate restoration fees as provided in rules adopted by the director in accordance with chapter 91, HRS. After one year from the date of forfeiture, a license shall not be restored and the person shall be treated as a new applicant and shall meet all the requirements of a new applicant. [Eff 3/12/76; am

and ren §16-72-48, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §§436E-7, 436E-9) (Imp: HRS §436E-9)

## SUBCHAPTER 8

### PUBLIC HEALTH AND SANITATION

§16-72-52 Office. When acupuncture is conducted in a building used for residential purposes, a room or rooms shall be set apart as an office for the practice and shall be used solely for this purpose. It shall be equipped with a washroom and toilet facilities. An acupuncture office may be inspected at any time during normal business hours by the board or any authorized employee of the department of commerce and consumer affairs. [Eff 3/12/76; am and ren §16-72-52, 6/22/81; am and comp 12/30/82; comp 11/20/86; comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

§16-72-53 Sanitation practices. Required practices shall include:

- (1) A fresh, disposable paper or a fresh sheet shall be used on the examining table for each patient;
- (2) Hands shall be washed with soap and water before handling needles and between treatment of different patients;
- (3) All reuseable needles and instruments used on a patient shall be sterilized at a minimum temperature of 250°F (or 121°C) for not less than thirty minutes before use on another patient;
- (4) Skin in the area of penetration shall be thoroughly swabbed with germicidal solution before inserting needles
- (5) All reuseable needles shall be placed in a germicidal solution, washed and rinsed prior to sterilization;
- (6) All disposable needles shall not be recapped;
- (7) All disposable needles shall not be used more than once, and shall be disposed of immediately in the manner prescribed in paragraph (8) below;
- (8) All used needles for disposal shall be placed in a hazardous waste container, sealed, and disposed in a safe manner (i.e., taking the disposed needles in a sealed container for incineration); and
- (9) Other sanitation procedures and practices shall be followed to insure and protect the health and safety of patients. [Eff 3/12/76; am and ren §16-72-53, 6/22/81; am and comp 12/30/82; comp

11/20/86; am and comp 11/25/88] (Auth: HRS §436E-7) (Imp: HRS §436E-7)

## SUBCHAPTER 9

### ADVERTISEMENT

§16-72-57 Use of titles. An acupuncturist shall not misrepresent one's professional title, qualification, and affiliation in an advertisement. [Eff 3/12/76; am and ren §16-72-57, 6/22/81; am and comp 12/30/82; am and comp 11/20/86; am and comp 11/25/88] (Auth: HRS §§436E-7, 436E-13) (Imp: HRS §436E-13)

§16-72-58 Repealed. [R 11/20/86]

§16-72-59 Repealed. [R 11/20/86]

## SUBCHAPTER 10

### PRACTICE AND PROCEDURE

§16-72-63 Administrative practice and procedure. The rules of practice and procedure for acupuncturists shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff and comp 11/20/86; comp 11/25/88] (Auth: HRS §§91-2, 436E-7) (Imp: HRS §§91-2, 436E-7)

## SUBCHAPTER 11

### ORAL TESTIMONY

§16-72-67 Oral testimony. (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:



- (1) Each person seeking to present oral testimony shall so notify the board no later than forty-eight hours prior to the meeting, and at that time shall state the item on which testimony is to be presented;
  - (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
  - (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
  - (4) Persons presenting oral testimony, at the beginning of the testimony, shall identify themselves and the organization, if any, that they represent;
  - (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed;
  - (6) The board may refuse to hear any testimony which is irrelevant, immaterial or unduly repetitious to the agenda item on which it is presented.
- (b) Nothing in this chapter shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another proceeding pending subject to the hearing relief, declaratory relief, or rule relief provisions of chapter 16-201.
- (c) Nothing in this chapter shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff and comp 11/20/86; comp 11/25/88] (Auth: HRS §§92-3, 436E-7) (Imp: HRS §92-3)

Amendments to and compilation of chapter 16-72, Hawaii Administrative Rules, on the Summary page dated June 30, 1988, were adopted on June 30, 1988, following a public hearing held on June 30, 1988, after public notices were given in the Honolulu Star-Bulletin and Honolulu Advertiser on June 5, 1988.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Paul Condry  
PAUL CONDRY, Chairman  
Board of Acupuncture

APPROVED AS TO FORM: Date Aug. 8, 1988

/s/ Michael L. Meaney  
Deputy Attorney General

Approved: Date October 19, 1988

/s/ Robert A. Alm  
ROBERT A. ALM  
Director of Commerce and Consumer Affairs

Approved: Date Nov. 15, 1988

/s/ John Waihee  
JOHN WAIHEE  
GOVERNOR OF HAWAII

Filed

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-72  
Hawaii Administrative Rules

June 30, 1988

SUMMARY

1. §§16-72-3 and 16-72-5 are amended.
2. §16-72-14 is amended.
3. §16-72-20 is amended.
4. §16-72-23 is amended.
5. §16-72-27 is amended.
6. §16-72-41 is amended.
7. §§16-72-46 through 16-72-48 are amended.
8. §16-72-53 is amended.
9. §16-72-57 is amended.
10. Chapter 72 is compiled.

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